**THE HON'BLE MS JUSTICE G.ROHINI**

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**WRIT PETITION NO : 4644 of 2005**

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**Dated:09th September, 2005.**

Between:

L. Kasana Naik S/o Ramji,
VTD. Labour Contract Coop. Society Ltd., Bikku Tanda,

Paloncha (M), Khammam District.

**..... PETITIONER**

AND

The Deputy Registrar of Coop. Societies/ Divisional Coop. Officer,

Kottagudem, Khammam District, and another.

**.....RESPONDENTS**

**ORDER:**

This writ petition is filed seeking a declaration that the proceedings of the first respondent, dated 21.12.2004, as well as the consequential proceedings, dated 21.12.2004, are arbitrary and illegal.

The writ petitioner was elected as President of the Village Tribal Development Labour Contract Cooperative Society (hereinafter referred to as 'the Society'), Bikku Thanda, Paloncha Mandal, Khamman District, in the elections held in the year 2003. It appears that on the basis of certain complaints received from the Members of the Society alleging that the petitioner has committed certain irregularities, the Cooperative Sub-Registrar has conducted enquiry and submitted a report, dated 21.09.2004. As per the said report, the petitioner was not residing in the headquarters of the Society. It was also found by the Enquiry Officer that the petitioner was not engaging the Members of the Society in the works of the Society, but engaging some non-members, thereby depriving the benefits of the income to the Society. It was also found that the petitioner failed to conduct the meetings of the

Managing Committee periodically. On the basis of the said enquiry report, the petitioner was issued a notice dated 21.09.2004 under Section 32(3) of the A.P.Co-operative Societies Act, 1964 (for short 'the Act'), calling upon him to submit his explanation on or before 28.09.2004 as to why action should not be taken against him as per the provisions of the Act and the Rules. Subsequently, a final order was passed on 29.09.2004, disqualifying him as the President of the Society, stating that in spite of the opportunity afforded, he failed to submit his explanation. Aggrieved by the same, the petitioner filed W.P.No.18240 of 2004. The said writ petition was disposed of by order dated 07.10.2004, thereby setting aside the impugned order and granting liberty to the petitioner to submit his explanation on or before 18.10.2004, in which event, the same shall be considered and appropriate orders shall be passed afresh in accordance with law. Subsequently, the time for submitting the explanation was extended up to 10.12.2004. Accordingly, the petitioner submitted his explanation on 10.12.2004, denying all the allegations made in the show cause notice and stating that he is very much residing in Bikku Thanda. Having considered the said explanation, the first respondent passed the impugned order, dated 21.12.2004, under Section 32(3) of the Act, thereby disqualifying the petitioner as President of the Society with immediate effect. In pursuance thereof, on the same day by separate proceedings, the second respondent herein has been appointed as Special Officer to manage the affairs of the Society for a period of six months or till the elections to the Society are conducted. The said orders are under challenge in this writ petition.

I have heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents and perused the material on record.

The learned counsel for the petitioner primarily contended that since the first respondent failed to furnish a copy of the enquiry report and other relevant documents, the petitioner was deprived of an opportunity to submit a suitable explanation with regard to all the allegations made. The learned counsel contends that the said action of

the first respondent amounts to violation of the principles of natural justice and therefore, on that ground alone, the impugned order is liable to be set aside.

On the other hand, the learned Government Pleader contended that the impugned order which was passed after considering the explanation submitted by the

petitioner is in accordance with law and unassailable, and therefore, the interference of this Court is not warranted.

At the outset, it is to be noted that the fact that the impugned proceedings were initiated on the basis of the enquiry report, dated 21-09-2004, submitted by the Co-operative Sub-Registrar is not in dispute. Admittedly, there was no notice to the petitioner in the said enquiry and whatever findings were recorded by the said Enquiry Officer were without taking into consideration the version of the petitioner. May be that, subsequently, a show cause notice was issued to the petitioner and he was afforded an opportunity to submit his reply. But, issuance of such show-cause notice itself cannot be construed to be in compliance with the principles of natural justice since the petitioner was not supplied a copy of the enquiry report which forms the basis for the impugned proceedings.

In the counter-affidavit filed on behalf of the respondents, the fact that the petitioner was not furnished a copy of the enquiry report was not disputed, but it was explained that the petitioner failed to remit the copying fee and therefore the enquiry report as sought by him was not furnished.

The law is well settled that whenever the competent authority places reliance on any report before issuing a show-cause notice, the delinquent shall have to be supplied with a copy of such report. Failure to do so would amount to non-compliance with the fundamental principles of natural justice. Hence, the impugned order is liable to be set aside on that ground alone.

Though the learned Counsel for the petitioner raised various other contentions stating that all the allegations made against the petitioner are untenable and without any basis, I am not inclined to go into those aspects and express any opinion on merits since it is a matter for enquiry after furnishing a copy of the report dated 21-9-2004 to the petitioner and after receiving the further explanation, if any, from the petitioner.

Accordingly, the impugned order dated 21-12-2004 as well as the consequential order dated 21-12-2004 are set aside and the Writ Petition is disposed of with a direction to the 1st respondent to furnish a copy of the enquiry report, dated 21-9-2004, to the petitioner free of cost within a period of two weeks from the date of receipt of this order. Thereafter, it is open to the petitioner to submit

his further explanation, if any, within a period of two weeks thereafter, in which event the 1st respondent shall consider the matter afresh and pass appropriate orders in accordance with law as expeditiously as possible preferably within a period of four weeks thereafter. No costs.

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09th September, 2005.

Vs/gbs